IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.170 of 2024

Commissioner of Income Tax
Chennai. .... Appellant

Vs.

M/s.Master Developers
123, Mint Street, Sowcarpet
Chennai 600 079.
(PAN AARFM5470B) .... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'A' Bench Chennai, dated 22.02.2023 made in I.T.A.No.873/Chny/2020.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

JUDGMENT

(Delivered by R.SURESH KUMAR, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai by raising the following substantial questions of law:

1. *Whether on the facts and in the circumstances of the case the Tribunal was right in holding that the gains earned by the assessee from the sale of property after converting the land into plots by spending on improvement to land in the course of assessee real estate business is not a business income of the assessee and the said income is to be treated income from capital gains?*

2. *Whether on the facts and in the circumstances of the case, the tribunal was right in allowing the assessee's claim for cost on improving the land?*

2. It is brought to our notice by the learned Standing Counsel for the appellant Revenue that in the instant case, as per the CBDT's Circular No.9 of 2024 dated 17.09.2024 the tax effect is said to be less than the monetary limit imposed and therefore, the appeal can be disposed of, keeping the substantial questions of law raised in this appeal open for adjudication at a later point of time.

3. Recording the aforesaid submission made by the learned Standing Counsel for the appellant Revenue, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs.

(R.S.K.,J.) (C.S.N.,J.)
21.10.2024

NCS : Yes/No
KST

To

The Income Tax Appellate Tribunal
'A' Bench, Chennai.

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.170 of 2024

21.10.2024